II. REMARKS

The Office Action allowed Claims 28, 29 and 52 and rejected Claims 49-51 and 53. By the foregoing amendments, Applicant cancelled Claims 49-51 and 53 without prejudice, amended Claim 28 to correct a typographical error and added new Claims 54-66 to further clarify, more clearly define and/or broaden the claimed invention, and expedite receiving a notice of allowance. Pursuant to 37 C.F.R. § 1.121(f), no new matter is introduced by these amendments. After these amendments, Claims 28-29, 52 and 54-66 are now pending in the application. Applicant believes that Claims 28-29, 52 and 54-66 are now in condition for allowance.

Please note that Applicant's remarks are presented in the order in which the issues were raised in the Office Action for the convenience and reference of the Examiner. In addition, Applicant requests that the Examiner carefully review any references discussed below to ensure that Applicant's discussion and understanding of the references, if any, is consistent with the Examiner's. Further, the following remarks are not intended to be an exhaustive enumeration of the distinctions between any particular reference and the claimed invention. Rather, the distinctions identified and discussed below are presented solely by way of example to illustrate some of the differences between the claimed invention and that reference.

A. Response to rejection under 35 U.S.C. § 103(a)

The Office Action rejected Claims 49-51 and 53 under 35 U.S.C. § 103(a) over United States patent no. 6,222,909 by Qua et al. in view of United States patent no. 6,671,353 by Goh in further view of United States patent no. 7,043,266 by Chaturvedi.

Applicant respectfully traverses this rejection at least because the cited references are not properly combined and the cited references, either alone or in combination, fail to disclose each claimed feature. Nevertheless, as mentioned above, to expedite receiving a notice of allowance, Applicant has cancelled Claims 49-51 and 53 without prejudice to pursuing such in a related application. Thus, their rejection is moot and should be withdrawn.

B. Allowable Subject Matter

The Office Action stated that Claims 28, 29 and 52 recited allowable subject matter. Applicant thanks the Examiner for his thorough consideration of the claims.

C. New Claims

New Claims 54-66 have been added to more fully define the Applicant's invention and are believed to be fully distinguished over the cited references.

1. Claims 54-56

New Claims 54, 55 and 56 depend from Claims 28, 29 and 52, respectively, which the Office Action stated were allowable. Accordingly, new Claims 54, 55 and 56 are allowable for at least the same reasons as the allowed claims from which they depend.

2. Claims 57-58

New Claim 57 is a system claim that substantially corresponds to Claim 52, which is a method claim that the Office Action stated was allowable. Accordingly, new Claim 57 is allowable for substantially the same reasons as Claim 52. New Claim 58 depends from new Claim 57 and is therefore allowable for at least the same reasons as new Claim 57.

3. Claims 59-66

New Claim 59 recites, among other things, "receiving first voice data from a second communication device as part of a first network-based instant connect call," "automatically playing the first voice data in response to receiving the first voice data," "replaying the first voice data in response to user input," and "while replaying the first voice data, receiving second voice data from the second communication device as part of the first network-based instant connect call." New Claim 63 recites, among other things, a first communication device configured to "receive first voice data from a second communication device as part of a first network-based instant connect call," "automatically play the first voice data in response to

receiving the first voice data," "replay the first voice data in response to user input," and "while replaying the first voice data, receive second voice data from the second communication device as part of the first network-based instant connect call." **Thus, new Claims 59 and 63 each generally recite a first communication device that (i) receives first voice data from a second communication device as part of a first network-based instant connect call, (ii) automatically plays the first voice data in response to receiving the first voice data, (iii) replays the first voice data in response to user input, and (iv) while replaying the first voice data, receives second voice data from the second communication device as part of the first network-based instant connect call**.

In contrast, the *Qua* system teaches away from receiving additional voice data via a call while replaying voice data from a call. In particular, although the *Qua* patent teaches that a user can retrieve and replay audio notes,[1] the *Qua* patent states that, for a user of its wireless terminal 110 to replay a stored audio note during a call, the user must place the other party on hold.[2] This would thus prevent the other party on hold from sending voice data to the user while the user replays the stored audio note.

Moreover, the Office Action did not cite or articulate any teaching, suggestion, motivation or other reason why one of ordinary skill in the art would have **both** (1) added the "PTT mode" of the *Chaturvedi* patent to the *Qua* system ; **and** (2) provided any replaying functionality with such "PTT mode." Instead, the Office Action merely addressed a motivation to add a PTT mode to the *Qua* wireless terminal 110.[3] The Office Action failed to cite or articulate any teaching, suggestion, motivation or other reason why one of ordinary skill in the art would have provided replaying functionality with the added PTT mode. Tellingly, the Office Action has not shown any cited reference that teaches replaying functionality with a PTT mode.

In view of the foregoing, new Claims 59 and 63 are allowable. Moreover, new Claims 60-62 and 64-66, which depend from new Claims 59 and 63, are allowable for at least the same reasons as new Claims 59 and 63.

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[1] "The user can also retrieve and replay notes[.]" U.S. patent no. 6,222,909, at 6:39-42.
[2] "The latter is achieved by placing the called party on hold, and then having the user access and replay the previously stored note." U.S. patent no. 6,222,909, at 6:39-42.
[3] Office Action, at 3 ("The motivation for such a modification was to use only one device in different communication modes.").

CONCLUSION

Applicant submits that Claims 28-29, 52 and 54-66 are allowable over the cited references and are in condition for allowance. Accordingly, Applicant requests that a Notice of Allowance be promptly issued.

If any further impediments to allowance of this application remain, the Examiner is cordially invited to contact the undersigned by telephone so that these remaining issues may be promptly resolved.

The Commissioner is hereby authorized to charge payment of any of the following fees that may be applicable to this communication to Deposit Account No. 23-3178: (1) any filing fees required under 37 CFR § 1.16 if such fees have not otherwise been paid; and (2) any patent application and reexamination processing fees under 37 CFR § 1.17 if such fees have not otherwise been paid. The Commissioner is hereby authorized to credit overpayment of any fees that may be applicable to this communication to Deposit Account No. 23-3178. If any additional extension of time is required, but has not been requested, please consider this a petition for the additional extension of time and charge any additional fees that may be required for the additional extension of time to Deposit Account No. 23-3178.

DATED this 2nd day of March, 2009.

Respectfully submitted,

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